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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,717	12/20/2000	Valerie Crocitti	PF990099	7519

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EXAMINER

TRAN, TRANG U

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 02/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/741,717

Applicant(s)

CROCITTI ET AL.

Examiner

Trang U. Tran

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed Dec. 11, 2003 have been fully considered but they are not persuasive.

In re pages 5-7, applicants argue that Lazarus et al neither disclose nor suggest "a processing module able to correlate the usage criteria of said service data and storage criteria characterizing the memory with a view to determining the conditions of storage of the service data in said memory, the processing module being activated automatically on receipt of said service data and of the associated usage criteria" as in the present claimed invention because Lazarus et al teach that the storage is processed according to the information that is received.

In response, the examiner respectfully disagrees. Lazarus et al discloses in col. 4, lines 21-26 that "If there is insufficient free space memory available, the system then invokes the triage subroutine 140 wherein, as explained more fully below, information contained in unexpired program records is prioritized and deleted according to its current value to the viewer". From the above passages, it is clear that the system of Lazarus et al does correlate the usage criteria of said service data (unexpired program records is prioritized and deleted according to its current value to the viewer) and storage criteria characterizing the memory (if there is insufficient free space memory available) with a view to determining the conditions of storage of the service data in said memory, the processing module being activated automatically on receipt of said service

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data and of the associated usage criteria (deleted according to its current value to the viewer). Thus, Lazarus et al does disclose all the claimed limitations.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lazarus et al. (US Patent No. 5,652,613).

In considering claim 1, Lazarus et al. discloses all the claimed subject matter, note 1) the claimed wherein it furthermore includes means of reception of said service data and of usage criteria associated with the usage of these service data is met by the set-top box which has the database which constructed in DRAM 18 (col. 3, lines 7-44), 2) the claimed a processing module able to correlate the usage criteria of said service data and storage criteria characterizing the memory with a view to determining the conditions of storage of the service data in said memory, the processing module being activated automatically on receipt of said service data and of the associated usage criteria is met by the microcontroller 16 which provides a suitable processor means for executing the programming (Fig. 1, col. 3, line 30 to col. 7, line 23).

In considering claim 2, the claimed wherein it is linked to at least one internal memory and/or external memory and/or remote memory is met by the memory EEPROM 20 (col. 3, lines 7-44).

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In considering claim 3, the claimed wherein it furthermore includes an evaluation module for determining the characteristics of said at least one memory and for including the characteristics thus determined in the storage criteria is met by the "housekeeping" routine 100 function which creates free space in the memory used for schedule information storage (Fig. 1, col. 3, line 45 to col. 5, line 20).

In considering claim 4, the claimed wherein it furthermore comprises a reorganization module analyzing the storage criteria so as to trigger a procedure for reorganizing the allocation of the stored information so as to free some space in the memory while complying with the usage criteria of the stored service data is met by the "housekeeping" routine 100 function and the triage routine 140 which create free space in the memory used for schedule information storage (Fig. 1, col. 3, line 45 to col. 7, line 23).

Claim 5 is rejected for the same reason as discussed in claim 4.

In considering claim 6, the claimed wherein the memory is of retentive type is met by the memory EEPROM 20 (col. 3, lines 7-44).

Claim 7 is rejected for the same reason as discussed in claim 1.

Claims 8-9 are rejected for the same reason as discussed in claims 3-4, respectively.

Claim 10 is rejected for the same reason as discussed in claim 4.

In considering claim 11, the claimed wherein the reorganizing step is activated automatically during periods of non-usage of the receiver and/or upon the activation of a service data storage request is met by col. 3, line 45 to col. 4, line 9.

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In considering claim 12, the claimed wherein the reorganizing step includes an operation of compressing the data in the memory followed by an operation of storing the data thus compressed is met by the triage routine 140 which creates free space in the memory used for schedule information storage (Fig. 1, col. 5, line 22 to col. 7, line 23).

In considering claim 14, the claimed wherein the user fixes the storage criteria is met by the triage subroutine 130 and the triagle subroutine 140 because the subroutines are fixed (col. 4, lines 10-29).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lazarus et al (US 5,652,613) in view of Jenevein et al (US 6,615,365 B1).

In considering claim 13, Lazarus et al discloses all the claimed features as discussed in claim 9 above, except for providing the claimed wherein the reorganizing step includes a step of transferring the data to an external or remote memory of the television receiver.

Jenevein et al teaches an apparatus for backing up or imaging of the information they originally loaded on a hard drive by copying entire disk state on the backup medium (col. 3, lines 20-33 and 51-58).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the capability of backing up or imaging of the information which originally loaded on a hard drive as taught by Jenevein et al into Lazarus et al's system in order to restore files if files are destroyed.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Trang U. Tran** whose telephone number is **(703) 305-0090**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **John W. Miller**, can be reached at **(703) 305-4795**.

**Any response to this action should be mailed to:**

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Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

TT TT  
February 22, 2004

  
MICHAEL H. LEE  
PRIMARY EXAMINER